

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA

V.

ROSMAN RICARDO ORTEGA

08 MJ 1533

Magistrate's Case No.


COMPLAINT FOR VIOLATION OF; Title 26 USC, Section 5861(d)– Possession of an unregistered firearm made from a shotgun

The undersigned complainant being duly sworn states:

COUNT 1

On or about the 13th day of May, 2008, in the Southern District of California, the defendant, Rosman Ricardo Ortega, knowingly possessed a firearm, to wit a weapon made from a shotgun, not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Section 5861(d).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


Special Agent Scott Wakelin
Bureau of Alcohol, Tobacco
Firearms and Explosives

Sworn to before me and subscribed in my presence, this 16th day of May 2008.

Cathy Ann Bencivengo
United States Magistrate Judge

United States

v.

Rosman Ricardo Ortega

Probable Cause Statement in Support of Complaint
And Arrest Warrant for Rosman Ricardo Ortega

OVERT ACTS

In violation of the aforementioned statutes the following acts were committed in the Southern District of California:

On May 13, 2008, Special Agent (SA) Scott Wakelin was contacted by ATF Investigator Kathy Fender regarding an incident that occurred on this date at a San Diego Federal Firearms Licensee location called Fine Firearms located at 8210 Parkway Drive, La Mesa, California. Fender informed SA Wakelin that store employee Rick Van Ritter reported an incident involving two males in possession of a short barreled shotgun.

On this same date, SA Wakelin contacted Van Ritter who stated the following in substance. At approximately 1:30pm, two males entered the store. One male, later identified as ORTEGA, was carrying a red colored Hilti brand tool box. ORTEGA asked Van Ritter to look at, identify and appraise the contents of the box. ORTEGA opened the box that contained a small shotgun which Van Ritter immediately identified as a short barreled shotgun. Van Ritter described the shotgun as having a wood stock that appeared to have been cut and silver colored over under style barrels. Van Ritter noticed that the forestock was missing, exposing some inner spring parts of the firearm. Van Ritter estimated that the firearm was approximately 13 inches in overall length. Van Ritter informed ORTEGA that it was an illegal firearm and took it away from ORTEGA, placing it behind the counter. ORTEGA told Van Ritter that he had just purchased it for \$800.00 and wanted it back. Van Ritter again explained that it was an illegal firearm and refused to return it. ORTEGA then lay across the counter and retrieved the box and firearm. He and his companion then fled the store and drove away in a four door sedan. Van Ritter recorded the license plate as California license plate 6CQS512. Van Ritter described ORTEGA as a tall, heavyset, Hispanic male with short hair. Van Ritter described the second male as shorter than ORTEGA with short hair and slender build. Van Ritter informed SA Wakelin that he had contacted both the ATF and La Mesa Police Department following the incident. Van Ritter further informed SA Wakelin that he held a Federal Firearms License (FFL) from 1997 to 2006 and is currently working under his business associates FFL at Fine Firearms. Van Ritter has been engaged in the business of buying and selling firearms for over a decade.

Continuing on this date, SA Wakelin initiated a query of Van Ritter in the ATF Federal Firearms Licensee Database and confirmed that he held a Valid FFL from 1997 to 2006.

Continuing on this date, SA Wakelin initiated a query of the suspect vehicle in local law enforcement databases which showed it to be currently registered to Suzan Lakoske at 9721 Dale street #24, Spring Valley, California. Further checks identified ORTEGA as a known City Heights Jr. gang member and an acquaintance of Lakoske. In addition, SA Wakelin obtained a copy of ORTEGA's California driver's license which listed his physical description as 6 feet tall, 215 pounds. SA Wakelin contacted San Diego Police Department (SDPD) Gang Detective Steve Hobbs regarding ORTEGA.

Continuing on this date, SA Wakelin obtained a photo of ORTEGA and presented it to Van Ritter in a photo-lineup. Van Ritter immediately identified ORTEGA as the individual with the box containing the firearm.

On May 15, 2008, at approximately 6:00pm, ORTEGA was arrested by the San Diego Police Department (SDPD) Gang Suppression Unit for being found in possession of burglary tools and transported to SDPD headquarters for processing. At the time of his arrest ORTEGA was accompanied by an adult male identified as Cesar Omar PEREZ, a documented City Heights gang member, three time convicted felon, and illegal alien. PEREZ was also arrested and transported to SDPD headquarters for processing. SDPD Gang Detective Steve Hobbs contacted SA Wakelin regarding ORTEGA's arrest.

Continuing on this date, SA Wakelin and Detective Hobbs interviewed ORTEGA. Detective Hobbs advised ORTEGA of his Miranda Rights and ORTEGA agreed to talk with investigators. ORTEGA stated that on Tuesday he and a friend entered Fine Firearms gun store. ORTEGA stated that he showed the clerk a firearm that he had purchased for \$500.00 and wanted to know what it was and what it was worth. ORTEGA stated that the clerk told him it was illegal due to its size and took it away. ORTEGA stated that he then reached over the counter, retrieved the box and firearm and left the store. ORTEGA stated that he had purchased the firearm on Friday for \$500.00 from PEREZ's acquaintance. ORTEGA stated that when he purchased the firearm he believed it to be a short rifle. ORTEGA used his hands to describe the size of the firearm, holding his hands approximately 12 inches apart. ORTEGA described himself as a leader in the City Heights Jr. gang and admitted to having possesses many firearms in the past. ORTEGA stated that he had returned the firearm to the seller and recovered his money, but that he could retrieve it from the seller if he wanted to. ORTEGA later stated that the firearm was in Mexico and could not be retrieved.

At the time of his arrest, SA Wakelin discovered a picture of a short barreled shotgun in ORTEGA's cell phone. The picture matched the description of the firearm given by Van Ritter, to include a missing forestock. The picture was then saved and printed for evidentiary purposes.

On May 16, 2008, SA Wakelin contacted Van Ritter and presented the photo of the firearm retrieved from ORTEGA's cell phone. Van Ritter immediately identified the firearm in the photo as the same firearm ORTEGA possessed at Fine Firearms on May 13, 2008. Van Ritter studied the photo and determined the firearm to be a small caliber shotgun. Van Ritter determined the barrel length to be approximately 12 inches due to the length of the top sight.

On May 16, 2008, SA Wakelin initiated a query of ORTEGA in the National Firearms Act Registration and Transfer Record database with negative results.